

06-21-04

3747

JLW

Attorney's Docket No. 2552.005**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Michael Shetley  
Serial No.: 0 10/620,967      Group No.: 3747  
Filed: 7/14/2003      Examiner: (not yet assigned)  
For: MULTI-PHASE FUEL SYSTEM

Assistant Commissioner for Patents  
Washington, D.C. 20231

ATTENTION: Director, Group 3747**REQUEST FOR WITHDRAWAL AS ATTORNEY (37 CFR 10.40(c))**

**NOTE:** Withdrawal is effective when approved. At least 30 days between approval and expiration of a time response period is required. This is so that the applicant will have sufficient time to obtain other representation or take other action. If less than thirty days remain in a running response period, a request to withdraw is normally disapproved. It would be helpful if a request and fee, preferably an authorization to charge a deposit account, were included with a request to withdraw. Such would permit the Office to make sure, in most instances, that sufficient time remains in the period for response. MPEP § 402.06 and Notice of September 3, 1985 (1058 O.G. 32-33).

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**CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231  
P.O. Box 1450  
Arlington VA 22202-3513

Date: 6/17/04**FACSIMILE**

☐ transmitted by facsimile to the Patent and Trademark Office.

  
Signature

Michael A. Slavin

(type or print name of person certifying)

## REQUEST FOR PERMISSION TO WITHDRAW

NOTE: "If a period has been set for response and the period may be extended [without a showing of cause pursuant to 37 CFR 1.136(a)] by filing a petition for extension of time and fee, it is not necessary to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed." Notice of November 30, 1990 (1122 O.G. 571 to 591).

1. I, an attorney signing below, respectfully request permission to withdraw from all further responsibility in this case, in accordance with 37 CFR 1.36.

(complete the following item, if appropriate)

- ☐ Because the amendment referred to in item 4A(iii) below is a continuing application signed only by an attorney named below under

☐ 37 CFR 1.60(b),

☐ 37 CFR 1.62(c),

this withdrawal request is also for such continuing application.

### LAST KNOWN ADDRESS OF CLIENT

2. The last known mailing address of the:

☒ inventor(s)

☐ assignee of the entire interest

is P.O. Box 997  
Welaka, FL 32193

### BASIS FOR WITHDRAWAL REQUEST

3. The basis for the request for withdrawal is 37 CFR 10.40(c) §(§) \_\_\_\_\_.

Explanation (including brief description of exhibits, if any):

Adversarial relationship raised by client. Can not represent adverse client.

See attached letter.

*(add additional page(s), as required for explanation)*

## ALLOWANCE OF TIME FOR CLIENT TO ACT

### 4. Status of this Application

#### A. Response due (if any)

- (i) ☒ There is no outstanding term for response.
- (ii) ☐ There is an outstanding term for response that is set to expire on \_\_\_\_\_.  
The above term is extendible under 37 CFR 1.136(a), until \_\_\_\_\_ and the fees for such extension
- ☐ are
- ☐ are not

being submitted herewith.

**NOTE:** "If a period has been set for response and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved." Notice of December 10, 1987, 1086 OG 457.

(complete the following, if applicable)

- (iii) ☐ Also submitted herewith, is a response to the outstanding Official Action.

#### B. Time Left for Response

Therefore, the amount of time for response, including extension under 37 CFR 1.136(a), is:

- ☐ at least \_\_\_\_\_.
- ☒ cannot be calculated because this case is/will now be awaiting action by the PTO.

## NOTIFICATION OF CLIENT

5. In accordance with 37 CFR 10.40(a), a copy of this request, including attachments, is being sent to the client.

A copy of the letter to the client is attached.

**NOTE:** A practitioner shall not withdraw from employment without giving due notice to his or her client. 37 CFR 10.40(a).

## NUMBER OF COPIES OF REQUEST

6. This request is enclosed in triplicate.

**NOTE:** "To expedite the handling of request for permission to withdraw as attorney under 37 CFR § 1.36 submit the request in triplicate (original and two copies. . ." Notice of September 3, 1985 (1058 O.G. 32).

**7. Related Applications for Which Withdrawal is Requested**

Withdrawal also is (has been) requested in the following related applications of the:

(check all applicable items)

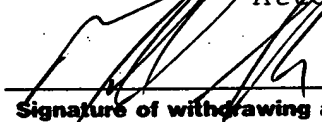
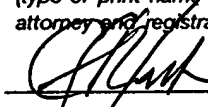
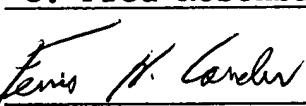
- ☒ inventor:  
☐ assignee:  
☐ common representative:

<u>Application Number</u>	<u>Group</u>	<u>Status of Withdrawal request</u>
<u>10 / 4612259</u>	<u>3747</u>	<u>Pending</u>
<u>/</u>	<u></u>	<u></u>
<u>/</u>	<u></u>	<u></u>

**SIGNATURE(S) OF WITHDRAWING ATTORNEY(S)**

**8. Signature(s) of the attorney(s) withdrawing (or signature of an authorized attorney on behalf of an attorney withdrawing)**

(list all the attorneys, and registration numbers, appearing on declaration or power, as appropriate. An authorized attorney signing on behalf of a withdrawing attorney should also show his or her registration number.) \* Attorneys associated with client no. 21,917.

 _____ Signature of withdrawing attorney	<u>6/17/04</u> _____ Reg. No. 34,016
<u>Michael A. Slavin</u> (type or print name of withdrawing attorney and registration number)	
 _____ C. Fred Rosenbaum	<u>6/17/04</u> _____ Reg. No. 27,110
<u>Ferris H. Lander</u>	
 _____ Ferris H. Lander	<u>6/17/04</u> _____ Reg. No. 43,377
_____	_____
_____	_____

Reg. No.: 34,016

Tel. No.: ( 561) 625-6575

 6/17/04  
SIGNATURE OF ATTORNEY

Michael A. Slavin

*(type or print name of attorney)*

2855 PGA Blvd.

P.O. Address

Palm Beach Gardens, FL 33410



McHALE & SLAVIN, P.A.

ATTORNEYS AT LAW

U.S. & INTERNATIONAL PATENTS, TRADEMARKS, COPYRIGHTS,  
RELATED LICENSING & LITIGATION

2855 PGA BOULEVARD  
PALM BEACH GARDENS • FLORIDA • 33410-2910  
TELEPHONE (561) 625-6575 FACSIMILE (561) 625-6572  
palmbeach@mspatents.com

June 17, 2004

Via Federal Express to ECC  
USPS to Michael Shetley

Syd Cooke, President  
Emissions Control Corporation  
3150 SW 42<sup>nd</sup> Street  
Palm City, FL 34990

RE: Withdrawal of Counsel

Dear Mr. Cooke:

Per the instructions of ECC, we have accepted calls from your representative Robert Roth. Mr. Roth proceeded to communicate with three attorneys in this office stating that this firm is at fault for not obtaining an assignment of invention from your chief engineer Mike Shetley. Mr. Roth further implied that this firm needs to force the assignments or the firm would be liable. The accusation and threat requires this firm to withdraw as counsel to ECC since an adversarial relationship has been created forcing a conflict of interest. The attached sheet illustrates that two outstanding office actions exist. **We have paid for extensions of time so that the response date for these applications are 45 days from today's date, thus new counsel must be obtained immediately.** Further copies of the office actions are attached. The retainer submitted to us stated "to be applied only to the Office actions" is herein returned. An outstanding balance remains for past services rendered.

Mr. Shetley had assigned three of his previous patent applications to ECC. When Mr. Shetley instructed us to prepare two more applications, we prepared the applications which we were told were in your possession before submittal. We had prepared the assignments but were then instructed to file the applications without them. As you and your corporate counsel are aware, this firm was instructed to take direction from Mike Shetley including where to send correspondence. Not until after this firm withdrew as counsel for Mr. Shetley in his personal matters were we apprised that Mr. Shetley was not communicating with ECC or that an adverse relationship existed between ECC and Mr. Shetley. Mr. Shetley did inform us on multiple occasions that he would assign the applications and ECC showed us documents that indicated such an obligation existed. For this reason, we agreed to assist ECC in filing a petition with the PTO regarding ownership but advised you and your corporate counsel that it is likely to be a state court issue. You and your corporate counsel stated that ECC had the intention of suing Mr. Shetley, wherein the ownership matter could be added if the Petition was declined.

The Petition was denied stating ownership issue is a court matter. We have since learned that ECC has not filed suit. Thus, while ECC clearly has shop rights to the invention, Mike Shetley retains control over prosecution.

Status of the files is shown on the attached sheet. We are sorry to see this relationship end on this note. We have truly enjoyed working on the patents in this area of technology and we sincerely wish you the best of success in your endeavors.

Sincerely  
McHale & Slavin, P.A.

Michael A. Slavin  
cc: Michael Shetley  
enclosure

- 2552.001 U.S. Application No. 10/307,030: SHETLEY FUEL ECONOMIZER filed 11/29/2002. Application assigned to ECC. Office action dated March 15, 2002, shortened period for response due date June 15, 2004, extended until August 15 through extension fee payment authorized by the firm in the Withdrawal of Attorney document. A copy of the office action is attached. **A response is due immediately to the outstanding office action.** Petition to withdraw as counsel submitted to the PTO on June 17, 2004.
- 2552.002 U.S. Application No. 10/293,316: PARALLEL VAPORIZED FUEL SYSTEM filed 11/12/2002. Application assigned to ECC. Patent application allowed, issuance fee paid. Petition to withdraw as counsel submitted to the PTO on June 17, 2004.
- 2552I.002 PCT Application No. PCT/US93/28055: PARALLEL VAPORIZED FUEL SYSTEM. Filed September 8<sup>th</sup> 2003. Entrance into the National Stage required by May 12, 2005. Petition to withdraw as counsel submitted to the PTO on June 17, 2004.
- 2552.003 U.S. Application No. 10/307,090: DIESEL EMISSION CONTROL filed 11/29/2002. Application assigned to ECC. Office action dated March 16, 2002, shortened period for response due date June 16, 2004, extended until August 16 through extension fee payment authorized by the firm in the Withdrawal of Attorney document. A copy of the office action is attached. **A response is due immediately to the outstanding office action.** Petition to withdraw as counsel submitted to the PTO on June 17, 2004.
- 2552.004 U.S. Application No. 10/461,259: HYDROGEN AND LIQUID FUEL INJECTION SYSTEM filed June 12, 2003. Application is not assigned. No outstanding office action is pending. Publication date December 12, 2004. . Petition to withdraw as counsel submitted to the PTO on June 17, 2004.
- 2552.005 U.S. Application No. 10/620,967: MULTI-PHASE FUEL SYSTEM filed July 14, 2003. Application is not assigned. No outstanding office action is pending. **Last date for foreign filing claiming the U.S. filing date is July 14, 2004.** . Petition to withdraw as counsel submitted to the PTO on June 17, 2004.